

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL MATHIE, IV,

Plaintiff,

vs

9:05-CV-848

GLENN S. GOORD, Commissioner; EDWARD J.
McSWEENEY, Assistant Commissioner/Executive
Assistant; THOMAS G. EAGEN, Director, Inmate
Grievance program, Central office review Committee;
and NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES,

Defendants.

APPEARANCES:

OF COUNSEL:

MICHAEL MATHIE, IV
Plaintiff, Pro Se
90-T-1282
Clinton Correctional Facility
Box 2000
Dannemora, NY 12929

HON. ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
The Capitol
Albany, NY 12224

DAVID L. COCHRAN, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

ORDER

Plaintiff, Michael Mathie, IV, brought this civil rights action pursuant to 42 U.S.C. § 1983. In a Report Recommendation dated August 23, 2006, the Honorable Randolph F. Treece, United States Magistrate Judge, recommended that the motion to dismiss be granted. Objections to the Report Recommendation have been filed by the plaintiff.

The Court also notes that the defendant New York State Department of Correctional Services has never been served, and the complaint is dismissed as against it as well.

Based upon a de novo review of the portions of the Report-Recommendation to which the plaintiff objected, the Report-Recommendation is accepted and adopted. See 28 U.S.C. 636(b)(1).

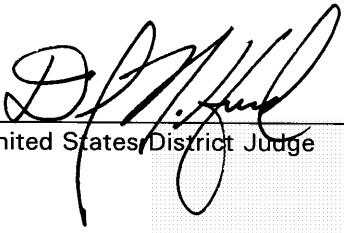
Accordingly, it is

ORDERED that

1. The motion to dismiss is GRANTED;
2. The complaint is DISMISSED as against defendants Glenn S. Goord, Edward J. McSweeney, Thomas G. Eagen and New York State Department of Correctional Services.
3. The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

Dated: November 20, 2006
Utica, New York.


United States District Judge